IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
CIVIL APPLICATION NO.3817 OF 2006
IN
FIRST APPEAL NO.320 OF 1997

Shri Chandrakant D. Avati ... ***Applicant***

Versus

The State of Maharashtra
and anr. ... ***Respondents***

Mr. P.N. Joshi, Advocate for the applicant
Mrs. Geeta Mulekar AGP for Respondent-1

CORAM : S.B. MHASE,
& S.R. SATHE, JJ.
DATED : 20th OCTOBER, 2006

P.C.:-

The application is under Provisions of Order-41 Rule-33 of CPC claiming liberty to raise the grounds mentioned in Annexure-A.

The Applicant is Respondent in the original appeal. Decree is in his favour.

Whether certain grounds to be considered under Order-41 Rule-33, in the interest of justice, so as to correct the decree, is the discretion of the Court taking the final hearing. Order-41 Rule-33 does not contemplate any application and grounds to be raised. Application is misconceived.

Under these circumstances learned Counsel submits that he may be allowed to withdraw this application and further prays liberty to convince the Court while dealing with final hearing of the matter, to exercise power under Order-41 Rule-33.

Therefore, leave to withdraw is granted with liberty to adjudicate the quantum and to convince the Court at the time of final hearing to consider the cases of the applicant-original respondent under Order-41 Rule-33 of CPC.

(S.R. SATHE, J.) ***(S.B. MHASE, J.)***